

JUSTIFICATION FOR AN EXCEPTION TO FAIR OPPORTUNITY

1. Contracting Activity: Department of Veterans Affairs (VA)
Office of Acquisition Operations
Technology Acquisition Center
23 Christopher Way
Eatontown, New Jersey 07724

2. Description of Action: The proposed action is for a firm-fixed price (FFP) delivery order to be issued under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) V Government Wide Acquisition Contract (GWAC) for brand name Commvault software and related support services.

3. Description of the Supplies or Services: The proposed action is for brand name Commvault software and related support services coverage for VA, Office of Information and Technology (OI&T), Service Delivery and Engineering, Program Administration Office. The software and related support services consist of server equipment software and related support services for the software being procured to the augment existing VA server storage and backup equipment in support of the Fee Basis Claim System Hardware Refresh Project. This Project is to augment the existing hardware, server and storage in order to enhance the current capacity for claims processing in order to process claims more effectively and efficiently. The period of performance shall be from date of delivery order award through May 5, 2016. The total estimated value of the proposed action is [REDACTED].

4. Statutory Authority: The statutory authority permitting an exception to fair opportunity is Section 41 U.S.C. 4106(c)(2) as implemented by the Federal Acquisition Regulation (FAR) Subpart 16.505(b)(2)(i)(B), entitled "Only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized."

5. Rationale Supporting Use of Authority Cited Above: Based on extensive market research, as described in section 8 of this document, it was determined that limited competition is available among authorized resellers for the Commvault software and related support services. The software and related support services being purchased are being used to augment an existing turnkey solution. The turnkey solution is comprised of parts from different manufacturers, including Commvault, which when assembled, make up an engineered design which is developed and supported by the solution provided. No other brand name software is able to be compatible with and interoperate with the existing turnkey solution due to the software being an augmentation to the existing system. VA is adding onto the existing infrastructure, therefore, if software other than Commvault was procured VA would have to completely discard the existing turnkey solution and reengineer a new solution resulting in a duplication of cost that could not be recovered through competition. Additionally, failure

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to procure the additional brand name Commvault software and related support services would delay the augmentation of existing VA server storage and backup equipment in support of the Fee Basis Claim System Hardware Refresh Project which would have a direct result to Veterans by increasing the probability that claims will not be processed in an effective and efficient manner.

6. Efforts to Obtain Competition: Market research was conducted, details of which are in the market research section of this document. This effort did not yield any additional sources, other than authorized resellers, that can meet the Government's requirements. It was determined, however, that limited competition is viable among authorized resellers for hardware maintenance coverage. In accordance with FAR 5.301 and 16.505(b)(2)(ii)(D), this action will be synopsisized and the justification will be made publicly available within 14 days of award on the Federal Business Opportunities Page. Additionally, in accordance with FAR 16.505(a)(4)(iii)(A)(2) the justification and supporting documentation shall be provided along with the solicitation to all contract awardees.

7. Actions to Increase Competition: The Government will continue to conduct market research to ascertain if there are changes in the market place that would enable future actions to be competed.

8. Market Research: Market research was conducted in July of 2015 by a panel of Government technical experts. The Government's technical experts conducted market research by reviewing other similar software and support from Acronis, IBM Tivoli Storage Manager and EMC NetWorker. However, the Government's technical experts have determined that only Commvault brand name software and related support services can meet all of VA's needs. This is due to interoperability and compatibility requirements within the existing turnkey solution of which Commvault software is a part of and the proprietary nature of this software requires only Commvault software and related support services to augment existing VA server storage and backup equipment in support of the Fee Basis Claim System Hardware Refresh Project. Based on the above, it has been determined that only Commvault software and related support services meet all of the Government's requirements. In July 2015, additional market research was conducted on the NASA SEWP V GWAC which found that numerous resellers of the product were available.

9. Other Facts: N/A

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10. Technical and Requirements Certification: I certify that the supporting data under my cognizance, which are included in this justification, are accurate and complete to the best of my knowledge and belief.

[REDACTED]

11. Fair and Reasonable Cost Determination: I hereby determine that the anticipated price to the Government for this DO action will be fair and reasonable based on the fact that contracts awarded on NASA SEWP V GWAC have already been determined to be fair and reasonable. As there are numerous potential vendors on NASA SEWP V GWAC, price competition is anticipated. Finally, the successful quote will be compared to the Independent Government Cost Estimate.

[REDACTED]

12. Procuring Contracting Officer Certification: I certify that this justification is accurate and complete to the best of my knowledge and belief.

[REDACTED]

13. Legal Sufficiency Certification: I have reviewed this justification and find it adequate to support an exception to fair opportunity and deem it legally sufficient.

[REDACTED]

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Approval

Based on the foregoing justification, I hereby approve the acquisition of brand name Commvault software and related support services in the estimated amount of \$[REDACTED], on an other than fair opportunity basis pursuant to Section 41 U.S.C. 4106(c)(2), subject to availability of funds, and provided that the services herein described have otherwise been authorized for acquisition.

[REDACTED]